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16 ATTORNEYS FOR PLAINTIFF

17
18 IN THE UNITED STATES DISTRICT COURT
19 FOR THE DISTRICT OF ALASKA

20 EQUAL EMPLOYMENT OPPORTUNITY
21 COMMISSION,

22 Plaintiff,

23 v.

24 SUMITOMO METAL MINING POGO,
25 LLC.,

Defendant.

CIVIL ACTION NO.

COMPLAINT

*Title VII of the Civil Rights Act of 1964 Action,
as amended, 42 U.S.C. section 2000e et seq.*

JURY TRIAL DEMAND

NATURE OF THE ACTION

26 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil
27 Rights Act of 1991 to correct unlawful employment practices on the basis of sex, female, and
28 retaliation, and to provide appropriate relief to Hannah Hurst, who was adversely affected by
29 such practices and to prevent further occurrence of such practices. The Equal Employment
30 Opportunity Commission ("EEOC" or "the Commission") alleges that defendant Sumitomo

COMPLAINT

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EQUAL EMPLOYMENT
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1 Metal Mining Pogo, LLC ("Pogo" or "Defendant") violated Title VII by discriminating against
2 Ms. Hurst when it denied her equal training and promotion opportunities on the basis of sex,
3 female, and unlawfully retaliated against her by imposing a higher standard for advancement as
4 compared to her male colleagues, and denying her training opportunities, causing her
5 constructive discharge.

6 7 JURISDICTION AND VENUE

8 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
9 1343 and 1345. This action is authorized and instituted pursuant to sections 706(f)(1) and (3) of
10 Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. section 2000e *et seq.* ("Title
11 VII") and section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

12 2. The employment practices alleged to be unlawful were committed within the
13 jurisdiction of the United States District Court for the District of Alaska.

14 15 PARTIES

16 3. Plaintiff, the Equal Employment Opportunity Commission, is the agency of the
17 United States of America charged with the administration, interpretation and enforcement of
18 Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title
19 VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

20 4. At all relevant times, Defendant has continuously been doing business in the State
21 of Alaska and has continuously had at least 15 employees.

22 5. At all relevant times, Defendant has continuously been an employer engaged in an
23 industry affecting commerce within the meaning of Sections 701(b), (g), and (h) of Title VII, 42
24 U.S.C. §§ 2000e(b), (g), and (h).
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ADMINISTRATIVE PROCEDURES

6. More than thirty days prior to the institution of this lawsuit, Hannah Hurst filed a charge of discrimination with the EEOC alleging violations of Title VII by Defendant.

7. On May 24, 2018, the Commission issued to Defendant a Letter of Determination finding reasonable cause to believe that Title VII was violated and inviting Defendant to join with the Commission in informal methods of conciliation to endeavor to eliminate the discriminatory practices and provide appropriate relief.

8. The Commission engaged in communications with Defendant to provide Defendant the opportunity to remedy the discriminatory practices described in the Letter of Determination.

9. The Commission was unable to secure from Defendant a conciliation agreement acceptable to the Commission.

10. On September 10, 2018, the Commission issued to Defendant a Notice of Failure of Conciliation.

11. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF CLAIMS

12. Since at least September 21, 2013, as described in greater particularity below, Defendant has engaged in unlawful employment practices in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), by discriminating against Ms. Hurst based on sex, when it denied her training and promotion opportunities as compared to her male colleagues, and has engaged in unlawful employment activities in violation of Section 704(a) of Title VII, 42 U.S.C. § 2000e-

1 3(a), by subjecting Ms. Hurst to retaliation because of her protected activity, resulting in her
2 constructive discharge.

- 3 a. Since at least May 2013, Ms. Hurst was qualified for advancement in her
4 position from Level 4 miner to Level 5 miner based on the criteria
5 Defendant had in place for advancement to Level 5, and as compared to
6 the qualifications possessed by Ms. Hurst's male colleagues who were
7 Level 5 miners.
8
9 b. Despite her qualifications, Ms. Hurst was not advanced from Level 4 to
10 Level 5.
11
12 c. In November 2013, Ms. Hurst complained to Defendant's HR department
13 of disparate treatment based on sex and sexually offensive materials in the
14 workplace.
15
16 d. In December 2013, Defendant retaliated against Ms. Hurst for her
17 complaint by imposing a "training plan" on Ms. Hurst which required
18 additional performance standards be met in order for Ms. Hurst to be
19 eligible to advance to Level 5. Ms. Hurst's male colleagues were allowed
20 to advance to Level 5 or remain at Level 5 without needing to satisfy the
21 same increased performance standards imposed on Ms. Hurst.
22
23 e. Since at least October 2013, Ms. Hurst was denied training opportunities
24 by Defendant in retaliation for engaging in protected activity when it
25 allowed Ms. Hurst's male colleagues assigned to conduct training to
refuse to work with or train Ms. Hurst because of her prior opposition to
or complaints of discrimination based on sex.

1 f. Ms. Hurst was never promoted to Level 5 before she was constructively
2 discharged on or about October 24, 2014.

3 13. The effect of the practices complained of in paragraph 12 above has been to
4 deprive Ms. Hurst of equal employment opportunities and otherwise adversely affect her status
5 as an employee because of the discrimination that occurred.

6 14. The unlawful employment practices complained of in paragraph 12 above were
7 intentional.
8

9 15. The unlawful employment practices complained of in paragraph 12 above were
10 done with malice or with reckless indifference to the federally protected rights of Ms. Hurst.

11 PRAYER FOR RELIEF

12 Wherefore, the Commission respectfully requests that this Court:

13 A. Grant a permanent injunction enjoining Defendant and its officers, agents,
14 successors, assigns, and all persons in active concert or participation with them, from engaging
15 in discrimination and retaliation against any of their employees.
16

17 B. Order Defendant to institute and carry out policies, practices, and programs which
18 prevent its employees from being subjected to discrimination and retaliation and which eradicate
19 the effects of past and present unlawful employment practices.
20

21 C. Order Defendant to make whole Ms. Hurst by providing appropriate back pay
22 with prejudgment interest, in amounts to be determined at trial, and other affirmative relief
23 necessary to eradicate the effects of the unlawful employment practices described above.

24 D. Order Defendant to make whole Ms. Hurst by providing appropriate front pay, in
25 amounts to be determined at trial, to eradicate the effects of the unlawful employment practices
described above

1 E. Order Defendant to make whole Ms. Hurst by providing compensation for past
2 and future pecuniary losses resulting from the unlawful employment practices described above,
3 including without limitation past and future out-of-pocket expenses, in amounts to be determined
4 at trial.

5 F. Order Defendant to make whole Ms. Hurst by providing compensation for past
6 and future non-pecuniary losses resulting from the unlawful practices complained of above,
7 including without limitation emotional pain, suffering, and loss of enjoyment of life, in amounts
8 to determined at trial.
9

10 G. Order Defendant to pay Ms. Hurst punitive damages for its malicious and reckless
11 conduct described above, in amounts to be determined at trial.

12 H. Grant such further relief as the Court deems necessary and proper in the public
13 interest.

14 I. Award the Commission its costs of this action.
15

16 JURY TRIAL DEMAND

17 The Commission requests a jury trial on all questions of fact raised by its complaint.
18 DATED this 26th Day of September 2018.
19

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22 JOHN F. STANLEY
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1 BY: /s/ Roberta L. Steele

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